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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/737,001 | 12/16/2003 | Wayne Lewis | NMTECH15 | 5752 |
| 7590 | 10/24/2005 | | EXAMINER | |
| ROBERT W. BECKER & ASSOCIATES Suite B 707 Highway 66 East Tijeras, NM 87059 | | | MAH, CHUCK Y | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3677 | |

DATE MAILED: 10/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------|--------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/737,001 | LEWIS, WAYNE |
| | Examiner | Art Unit |
| | Chuck Mah | 3677 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 31 August 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 2-7 and 11-13 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 2-7 and 11-13 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 13, 2-3 and 7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Maraman, Jr. (6,148,482). All claims are treated as combination claims including “grip” and “handle or shaft”.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maraman, Jr. '482 in view of Smith et al. (6,823,562).

'482 discloses the invention as claimed but for the grip being attached to the handle by glue as stated in claim 4. '562 shows a removable grip having an embodiment (fig. 11) that can be alternatively attached to the handle by glue permanently. It would have been obvious to one of ordinary skill in the art at the

time the invention was made to use glue as taught by '147 to attach the grip of '482 to the handle to make it permanently fixed.

As to claim 5, '562 teaches a handle grip made of two parts so that a handle can be readily received into the grip by simply interlocking the tongue and groove of the two parts. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the grip of '482 with two halves as taught by '562 so that the grip can readily receive a handle when the handle does not permit the grip to slide over the handle due to its geometric shape.

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maraman, Jr. '482 and Smith et al. '562 as applied to claims above, and further in view of Mason (2,319,147).

Both '482 and '562 do not show the grip halves being glued together. '147 teaches a grip having separable halves glued together to insure permanence, if desired. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the grip halves of '482 and '562 glued together as taught by '147 to insure permanence, if desired.

6. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maraman, Jr. '482.

'482 discloses the invention as claimed (especially fig. 3) but for the constant cross-sectional area of the remainder. It would have been an obvious matter of design choice to make the remainder section with a constant cross-sectional area or whatever form or shape was desired or expedient. A change in form or shape is generally

recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47.

Response to Arguments

7. Applicant's arguments filed August 31, 2005 have been fully considered but they are not persuasive. Applicant's primary argument is based on that the invention "has an oval or elliptical cross-sectional shape an any location along its length". However, claim 13 merely recites "along a length thereof". It only requires a length, not its entire length, to meet the claim. Further, "oval or elliptical" is shown by Maraman, Jr. '482, Col. 5, lines 36-40.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuck Mah whose telephone number is (571)272-7059. The examiner can normally be reached on 5/4-9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (571)272-7049. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Chuck Mah
Primary Examiner
Art Unit 3676

CM